

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JASMINE DIAZ, ET AL., ) Case No. 5:16-cv-2319  
Plaintiffs, )  
v. ) JUDGE SARA LIOI  
NEW WORK CITY, INC., ET AL., ) STIPULATION AND JOINT MOTION  
Defendants. ) FOR POSTPONMENT OF NOTICE  
)

The parties believe they can avoid the cost of litigation by exchanging due diligence materials and then negotiating a global FLSA settlement with a private mediator. To permit time for the due diligence exchange and mediation, the parties respectfully ask the Court to stay this case or otherwise place it in inactive status for sixty days, pending the outcome of mediation.

Therefore, subject to the Court's approval, the parties hereby stipulate as set forth below and consent to the entry of this stipulation as an order of the Court. This stipulation shall become effective between the parties upon the entry or endorsement of this stipulation as an order of the Court or the entry of a separate order approving the stipulation and ordering the matters contemplated.

The parties agree on the framework for the due diligence exchange and mediation, as follows.

**POSTPONMENT OF NOTICE**

1. The parties jointly agree to postpone any further briefing on or issuance of notice while they exchange due diligence materials as described below.

**DUE DILIGENCE EXCHANGE**

2. For purposes of due diligence, Defendants will provide the following to Plaintiffs within 30 days:

- a) Defendants will obtain and provide in Excel format payroll records showing hours worked for a randomly selected sample of 10% of the putative opt-in class, as well as a roster (with names redacted) of all of Defendants' employees showing dates worked. The parties will jointly agree on a method for random selection of the sample.
- b) Defendants will provide informal discovery based on the formal requests already submitted by Plaintiffs, such as the parties mutually agree.

3. All information and data will be provided by Defendant in confidence and for purposes of settlement discussions subject to Fed. R. Evid. 408, and shall be used by Plaintiff for no other purpose unless further agreed or ordered.

**MEDIATION**

4. Following the due diligence exchange, the parties will engage in

mediation with a mediator selected by mutual consent.

5. Upon the Court's approval, the Parties agree that applicable statutes of limitations shall be tolled during the due diligence exchange and mediation. If the parties are unable to come to a resolution of this action at mediation (or otherwise) during the sixty-day period, the applicable statute of limitations will resume and

continue to run starting on the sixty-first day subsequent to this Court's approval of the stay and postponement requested herein.

6. If the parties are unable to come to a resolution of this action at mediation, the deadlines will be extended based on the amount of time elapsed between the Court's Case Management Order and the date on which the Court is notified of the inability to reach a resolution.

Respectfully submitted,

s/Ryan A. Winters  
Joseph F. Scott (0029780)  
Ryan A. Winters (0086917)  
Scott & Winters Law Firm, LLC  
The Superior Building  
815 Superior Avenue E., Suite 1325  
Cleveland, OH 44114  
440-498-9100  
jscott@ohiowagewlawyers.com  
rwinters@ohiowagelawyers.com

*and*

Kevin M. McDermott II (0090455)  
McDermott Law LLC  
11925 Pearl Road, Suite 310  
Strongsville, Ohio 44136  
Telephone: 216-367-9181  
Facsimile: 440-846-1625  
kevin@mcdermottattorney.com

*Attorneys for Plaintiffs*

s/Edmond J. Mack (via e-mail consent)  
Lee E. Plakas  
David L. Dingwell  
Edmond J. Mack  
220 Market Avenue South, Eighth Floor

Canton, Ohio 44702  
Telephone: (330) 455-6112  
Facsimile: (330) 455-2108  
emack@lawlion.com  
ddingwell@lawlion.com  
lplakas@lawlion.com

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

s/Ryan A. Winters  
Ryan A. Winters (0086917)